

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

IN RE:)
) CASE NO. 15-40550-PWB
Dion Harlan Hughes)
) CHAPTER 13
Debtor.)

EX PARTE MOTION FOR AN ORDER REOPENING CASE TO PURSUE SANCTIONS FOR VIOLATIONS OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND VIOLATIONS OF THE 11 U.S.C. § 362 AND THE DISCHARGE INJUNCTION PROVIDED BY 11 U.S.C. § 524(i)

COMES NOW the above-named debtor by and through his attorney of record, and respectfully moves the Court pursuant to Section 350(b) of Title 11 of the United States Code, Rule 9024 of the Rules of Bankruptcy Procedure, and Rule 60 of the Federal Rules of Civil Procedure for the entry of an ex parte order to REOPEN this case in order that he may pursue Stay and Discharge violations against one or more creditors who were scheduled and participated in Debtor's chapter 13.

The Debtor shows that he filed the instant case on March 10, 2015. Bank of America, was scheduled as having a claim secured by Debtor residence in the amount of \$116,940.00. (See Docket #1, Page 12, Sched. D). BoA filed a proof of claim on June 23, 2015. Claim 7. In its proof of claim, BoA recorded \$2,532.59 as the amount necessary to cure the default present at the inception of the case. The sum claimed was comprised of <<one monthly payment in the amount of \$1,974.78, an escrow shortage of \$413.48, insufficient fund fees in the amount of \$15.00, late charges in the amount of \$180.30, minus unapplied funds in the amount of \$50.97. Claim 7, Page 5. The chapter 13 trustee paid Carrington's claim in its entirety.

On December 23, 2015, BoA filed its Transfer of Claim to Carrington Mortgage Services, LLC ("Carrington") for the servicing of Debtor's first mortgage, reflected in Claim 7.

The Court entered an Order of Discharge on January 22, 2019. The claim of Carrington however was not subject to discharge under 11 U.S.C. § 1328(c)(1). Since discharge, Debtor's counsel has since obtained information that indicates that Debtor's mortgage servicers charged and collected fees from the Debtor beyond the scope of the proofs of claim or any order of this Court in violation of terms of the Confirmed Plan, 11 U.S.C. §§ 362(a)(3) and 524(i). Debtor is being deprived of the fresh start assured to him under the law and incurring costs and other actual damages. Debtor alleges that it would be in the interest of justice to reopen this case and allow him to proceed with the legal action described and he so moves the Court for such relief and for such additional relief as the Court may deem just and proper. Pursuant to 28 U.S.C. § 1930 a fee to reopen should not be charged to the debtor, since this matter relates to his discharge.

This 29th day of August, 2019.

/s/

Matthew T. Berry, Bar #055663
Berry & Associates
2751 Buford Highway, Suite 600
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Ph. (404) 235-3334
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that I have on this day served all parties identified herein with a true and correct copy of the foregoing pleading by placing the same in a properly addressed and posted envelope.

Mary Ida Townson
Chapter 13 Trustee
285 Peachtree Center Ave NE
Suite 1600
Atlanta, GA 30303

Office of the United States Trustee
75 Ted Turner Drive, SW
Atlanta, Georgia 30303

Dion Harlan Hughes
43 Temperence Way
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BANK OF AMERICA
Fifteen Piedmont Center
3575 Piedmont Road, N.E.
Suite 500
Atlanta, GA 30305-1623

CARRINGTON MORTGAGE SERVICES,
LLC Bankruptcy Department
1600 South Douglass Road
Anaheim, CA 92806-5951

All Creditors identified on attached Matrix.

This 29th day of August, 2019.

/s/

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Label Matrix for local noticing
113E-4
Case 15-40550-pwb
Northern District of Georgia
Rome
Thu Aug 29 16:48:40 EDT 2019

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BANK OF AMERICA, N.A.
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Bank of America
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(d) Portfolio Recovery Associates, LLC
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The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

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(d) Carrington Mortgage Services, LLC
1600 South Douglass Road
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(d) Educational Credit Management Corporation
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End of Label Matrix
Mailable recipients 55
Bypassed recipients 3
Total 58